

THE PREVENTION OF FOOD ADULTERATION ACT, 1954
(37 of 1954)

[Act as on Date - Modified up to 1995]

[29th September 1954]

An Act to make provision for the prevention of adulteration of food.

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BE it enacted by Parliament in the fifth year of the Republic of India as follows:-

PRELIMINARY

1.Short title, extent and commencement

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(1) This Act may be called The prevention of Food Adulteration Act, 1954.

(2) It extends to the whole of India **a***[.....].

(3) It shall come into force on such date **b***[]as the Central Government may, by notification in the Official Gazette, appoint.

[a] Words "except the State of Jammu and Kashmir" omitted by the Prevention of Food Adulteration (Amendment) Act, 1971 (41 of 1971), section 2 (26-1-1972).

[b] 1st June 1955— S.R.O.1085, dated 9th May, 1955, published in Gaz.of Ind., 21-5-1955, Pt.II, S.3, p.874.

2.Definitions

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In this Act, unless the context otherwise requires,-

a*[(i) "adulterant" means any material which is or could be employed for the purposes of adulteration;]

a*[(ia)] "adulterated" – an article of food shall be deemed to be adulterated-

(a) if the article sold by a vendor is a not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be;

(b) if the article contains any other substance which affects, or if the article is so processed as to affect injuriously the nature, substance or quality thereof;

(c) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof;

(d) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof;

(e) if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health;

(f) if the article consists wholly or in part of any filthy, putrid **b***[.....] rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;

(g) if the article is obtained from a diseased animal;

(h) if the article contains any poisonous or other ingredient which renders it injurious to health:

(i) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its contents injurious to health;

c[(j) if any colouring matter other than that prescribed in respect thereof is present in the article, or if the amounts of that prescribed colouring matter which is present in the article are not within the limits of variability;]*

(k) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;

c[(l) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability which renders it injurious to health.*

(m) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability which does not render it injurious to health :

Provided that, where the quality or purity of the article, being primary food, has fallen below the prescribed standards or its constituents are present in quantities not within the prescribed limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then, such article shall not be deemed to be adulterated within the meaning of this sub-clause;

Explanation.— *Where two or more articles of primary food are mixed together and the resultant article of food.*

(a) is stored, sold or distributed under a name which denotes the ingredients thereof; and

(b) is not injurious to health

. then, such resultant article shall not be deemed to be adulterated within the meaning of this clause;]

[a] Cl.(i) renumbered as Cl.(ia) and new Cl.(i) inserted before the renumbered Cl.(ia) by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

[b] Word "disgusting", omitted, *ibid*.

[c] Substituted for sub-clauses (j) and (l), *ibid*

(ii) "Central Food Laboratory" means any laboratory or institute established or specified under section 4;

(iii) "Committee" means the Central Committee for the Food Standards constituted under section 3;

(iv) "Director of the Central Food Laboratory", means the person appointed by the Central Government by notification in the Official Gazette as the Director of the Central Food Laboratory and includes any person appointed by the Central Government in like manner to perform all or any of the functions of the Director under this Act :

a*[*Provided that not person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Director under this clause;***]**

[a] Proviso added by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

a*[*(v) "food" means any article used as food or drink for human consumption other than drugs and water and includes-*

(a) any article which ordinarily enters into, or is used in the composition or preparation of, human food,

(b) any flavouring matter or condiments, and

(c) any other article which the Central Government may, having regard to its use, nature, substance or quality, declare, by notification in the Official Gazette, as food for the purposes of this Act;]

[a] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

a*[(vi) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health Administration in a State, by whatever designation he is known, and includes any officer empowered by the Central Government or the State Government, by notification in the Official Gazette, to exercise the powers and perform the duties of the Food (Health) Authority under this Act with respect to such local area as may be specified in the notification;]

[a] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

(vii) "Local area" means any area, whether urban or rural, declared by **a*[**the Central Government or the State Government] by notification **b*[]** in the official Gazette, to be a local area for the purposes of this Act;

[a] Substituted for the words "the State Government" by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.2 (1-3-1965).

(viii) "Local authority" means in the case of –

(1) a local area which is-

(a) a municipality, the municipal board or municipal corporation;

(b) a cantonment, the cantonment authority;

(c) a notified area, the notified area committee;

(2) any other local area, such authority as may be prescribed by the Central Government or the State Government under this Act;

a*[(viiiia) "Local (Health) Authority", in relation to a local area, means the officer appointed by the Central Government or the State Government, by notification in the Official Gazette, to be in charge of Health administration in such area with such designation as may be specified therein ;

(viiiib) "manufacture" includes any process incidental or ancillary to the manufacture of an article of food;]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

(ix) "misbranded" – an article of food shall be deemed to be misbranded-

- (a) if it is an imitation of, or is a substitute for, or resembles in a manner likely to deceive another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character;
- (b) if it is falsely stated to be the product of any place or country;
- (c) if it is sold by a name which belongs to another article of food;
- (d) if it is so coloured, flavoured or coated, powdered or polished that the fact that the article is damaged is concealed or if the article is made to appear better or of greater value than it really is;
- (e) if false claims are made for it upon the label or otherwise;
- (f) if, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this act:
- (g) if the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular; or if the package is otherwise deceptive with respect to its contents;
- (h) if the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article;
- (i) if it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses;
- (j) if it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact or in contravention of the requirements of this act or rules made thereunder;
- (k) if it is not labelled in accordance with the requirements of this Act or rules made thereunder;
- (x) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed;
- (xi) "premises" include any shop, stall, or place where any article of food is sold or manufactured or stored for sale;
- (xii) "prescribed" means prescribed by rules made under this Act;
- a*[(xiii) "primary food" means any article of food, being a produce of agriculture or horticulture in its natural form;]*

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.2 (1-4-1976).

(xiii) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article;

(xiv) "sample" means a sample of any article of food taken under the provisions of this Act or of any rules made thereunder;

(xv) the words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health of repugnant to human use.

OBJECTS AND REASONS

"Clause 2.— The following changes have been made in the clause—

(i) Attention of the committee was drawn to the fact that there were traders and even entrepreneurs who produce or manufacture adulterants for sale, i.e., materials which could be readily used for purposes of adulteration. The Committee is of the opinion that the manufacture, sale or distribution of such adulterants should also be made punishable under the Act and has suggested suitable provisions in the Bill. The Committee has, therefore included a definition of the term 'adulterant' in the clause.

(ii) It was represented that primary food which became sub-standard on account of natural causes but was not injurious to health, should not be treated as adulterated or sub-standard for the purposes of the Act. It was also represented that a distinction should be made between an adulterated article and a sub-standard article. It was further contended that a substandard food article which was not injurious to health should be treated differently from a sub-standard article which was injurious to health and therefore lighter punishment should be prescribed for the former category of articles, i.e., sub-standard article not injurious to health.

The Committee has accordingly amended the proposed sub-clause (1) of Cl.(ia) and divided the sub-standard articles of food into two categories namely those which are 'injurious' to health and those which are "non-injurious" to health. However, the primary food that become sub-standard due to natural causes and beyond the control of human agency and which is not injurious to health has been exempted from the definition of 'adulterated'.

(iii) In order to prevent any possible misuse of office, the Committee has added a proviso to clause (iv) of section 2 of the Principal Act to clarify that a person who has a financial interest in the manufacture, import or sale of any article of food should not be appointed as a Director of the Central Food Laboratory.

(iv) The Committee is of the opinion that for declaring any article as food for the purpose of the principal Act, the expressions already used in the definition of 'adulterated' should be used. The Committee has accordingly amended the definition of 'food' as contained in the Bill.

(v) It has been clarified in the definition of "Local (Health) Authority" that an officer appointed by the Central Government or the State Government concerned for a local area shall be the "Local (Health) Authority" for that area.

(vi) The Principal Act also covers within its ambit the manufacture of any article of food. But the expression 'manufacture' has not been defined in the Act. The Committee has included a definition of the expression 'manufacture'.

(vii) The Committee has modified the definition of 'primary food' so as to include therein the produce of horticulture also and has omitted the words illustrative of the expression 'natural form'. The Committee has also omitted the definition of 'processed food' as it is felt that the definitions of 'food' and 'manufacture' included in the Bill are comprehensive enough to include, 'processed food'.—J.C.R., Gaz. of Ind., 5-1-1976. Pt. II, S. 2, Ext., p. 5.

STATE AMENDMENT

MAHARASHTRA :

In its application to the State of Maharashtra, (i) to clause (vi) add the following proviso: —

"Provided that, the Commissioner of Food and Drugs Administration, Maharashtra State, appointed as such by the State government shall, on the commencement of the Prevention of Food Adulteration (Maharashtra Amendment) Act, 1969, be the Food (Health) Authority in the State of Maharashtra."—Maha.Act 13 of 1970, section 2 (7-4-1979).

(ii) In S.2, in clause (viii), after sub-clause (2), add the following proviso namely,—

"Provided that 'local authority', in the case of a local area in the State of Maharashtra, means such authority or officer of the State Government as the State government may, by notification in the Official Gazette, appoint for the local area specified in the notification."—Maha.Act 50 of 1975, S.2 (11-4-1977).

a[2-A.Rule of construction.— Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]*

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1971 (41 of 1971), S.3 (26-1-1972).

CENTRAL COMMITTEE FOR FOOD STANDARDS AND CENTRAL FOOD LABORATORY

3.The Central Committee for Food Standards

.-

(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Government on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(2) The Committee shall consist of the following members, namely,-

(a) the Director-General, Health Services, ex-officio, who shall be the Chairman;

a[(b) the Director of the Central Food Laboratory or, in a case where more than one Central Food Laboratory is established, the Directors of such Laboratories, ex-officio] ;*

(c) two experts nominated by the Central Government;

b[(d) one representative each of the Departments of Food and Agriculture in the Central Ministry of Food and Agriculture and one representative each of the Central Ministries of Commerce, Defence, Industry and Supply and Railways, nominated by the Central Government] ;*

- (e) one representative each nominated by the Government of each **c***[.....] State ;
- (f) two representatives nominated by the Central Government to represent the **d***[Union territories];
- a***[(g) one representative each, nominated by the Central Government to represent the agricultural, commercial and industrial interests;
- (gg) five representatives nominated by the Central Government to represent the consumers' interests one of whom shall be from the hotel industry;]
- (h) one representative of the medical profession nominated by the Indian Council of Medical Research.
- e***[(i) one representative nominated by the Indian Standards Institution referred to in clause (e) of section 2 of the Indian Standards Institution (Certification Marks) Act, 1952.]

(3) The members of the Committee referred to in clauses (c), (d), (e), (f), **f*** **g***[(g), (gg),]and (h) and (i) of sub-section (2) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for re-nomination.

(4) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(5) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(6) The Committee may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the transaction of its business.

[a] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.3 (1-4-1976).

[b] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.3 (1-3-1965).

[c] Words "Part A State and Part B" omitted by A.L.O., 1956 (w.e.f.1-11-1956).

[d] Substituted for the words "Part C States", *ibid*.

[e] Inserted by Act 49 of 1964, S.3 (1-3-1965).

[f] Substituted for the brackets and letters "(g)" and "(h)", *ibid*.

[g] Substituted for the brackets and letter "(g)" by Act 34 of 1976, S.3 (1-4-1970).

OBJECTS AND REASONS

"Clause 3.— Since provision has been made for the establishment of more than one Central Food Laboratory the Committee is of the opinion that the Directors of all such laboratories as and when established should be members of the Central Committee for Food Standards. Further the Committee is of opinion that the representation of the consumers' interests in the Central Committee

for Food Standards should be increased from two to five and one of them should be from the hotel industry. The Committee has amended the clause accordingly." -- J.C.R.

a*[3A.Appointment of Secretary and other staff.--

(1) The Central Government shall appoint a Secretary to the Committee who shall, under the control and direction of the Committee, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Committee.

(2) The Central Government shall provide the Committee with such clerical and other staff as that Government considers necessary.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.4 (1-4-1976).

4. Central Food Laboratory

.-

a*[(1) The Central Government shall, by notification in the Official Gazette, establish one or more Central Food Laboratory or Laboratories to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act :

Provided that the Central Government may by notification in the Official Gazette, also specify any laboratory or institute as a Central Food Laboratory for the purposes of this Act.]

(2) The Central Government may, after consultation with the Committee, make rules prescribing-

a*[(a) the functions of the Central Food Laboratory and the local area or areas within which such functions may be carried out ;]

(b) the procedure for the submission to the said Laboratory of samples of articles of food for analysis or tests, the forms of the Laboratory's reports thereon and the fees payable in respect of such reports;

(c) such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

[a] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.5 (1-4-1976).

OBJECTS AND REASONS

"Clause 5.--The Committee is of the opinion that for a vast country like India the existence of one Central Food Laboratory is not adequate and for the effective implementation of the provisions of the Act, there should be more Central Food Laboratories in different regions of the country.

The Committee is also of the opinion that the Central Committee for Food Standards should continue to be consulted by the Central Government in the matter of prescribing rules relating to the working of the Central Food Laboratory as provided in the principal Act.

The clause has been amended suitably for the purpose."--J.C.R.Gaz.of Ind., 5-1-1976, Pt.II, S.2, Ext., p.7.

STATE AMENDMENT

West Bengal :

In its application to the State of West Bengal, to S.4(1), Add the following proviso :--

"Provided that the State Government may, with prior approval of the Central Government direct that the functions of the Central Food Laboratory and the Director may be carried out in West Bengal by such

Authority and such officer respectively, as may be specified by the State Government by notification in the Official Gazette and any reference in this Act to the Central Food Laboratory or the Director shall then be construed to mean such Authority or officer, as the case may be."--W.B.Act 42 of 1973, S.6 (i) (29-4-1974).

GENERAL PROVISIONS AS TO FOOD

5.Prohibition of import of certain articles of food

.-

No person shall import into India-

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and
- (iv) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

6.Application of law relating to sea customs and powers of Customs Officers

.-

(1) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by section 18 of the Sea Customs Act, 1878 shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under S.5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a **a*[Commissioner of Customs]** and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1) the **a*[Commissioner of Customs]**, or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory.

[a] Substituted for the words "Customs Collector" by Finance Act (22 of 1995), S.87.

7.Prohibition of manufacture, sale, etc., of certain articles of food.-

No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute-

(i) any adulterated food;

(ii) any misbranded food;

(iii) any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence:

(iv) any article of food the sale of which is for the time being prohibited by the Food (Health) Authority **a***[*in the interest of public health*] ; **b***[.....]

(v) any article of food in contravention of any other provision of this Act or of any rule made thereunder; **c***[*or*]

c*[(v) *any adulterant.*]

c*[**Explanation.**--For the purposes of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in clause (iii) or clause (iv) or clause (v) if he stores such food for the manufacture therefrom of any article of food for sale.]

[a] *Substituted for the words "with a view to preventing the outbreak or spread of infectious diseases" by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.4 (1-3-1965).*

[b] *Word "or" omitted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.6 (1-4-1976).*

[c] *Inserted, ibid.*

ANALYSIS OF FOOD

a*[

8.Public Analysts

.-

The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be public analysts for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be :

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed to be a public analyst under this section :

b*[*Provided further that different public analysts may be appointed for different articles of food.*]

[a] *S.8 substituted by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.5 (1-3-1965).*

[b] *Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.7 (1-4-1976).*

a*[

9.Food Inspectors

.-

(1) The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be food inspectors for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be :

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed to be a food inspector under this section.

(2) Every food inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the Government appointing him, may specify in this behalf.]

[a] S.9 substituted by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.5 (1-3-1965).

10.Powers of food inspectors

.-

(1) A food inspector shall have power-

(a) to take samples of any article of food from-

(i) any person selling such article;

(ii) any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee;

(iii) a consignee after delivery of any such article to him; and

(b) to send such sample for analysis to the public analyst for the local area within which such sample has been taken;

a*[(c) with the previous approval of the Local (Health) Authority having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food in the interest of public health.]

a*[Explanation.--For the purposes of sub-clause (iii) of clause (a) "consignee" does not include a person who purchases or receives any article of food for his own consumption.]

c*[(2) Any food inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exhibited for sale or where any adulterant is manufactured or kept, and take samples of such article of food or adulterant for analysis :

Provided that no sample or any article of food, being primary food, shall be taken under this sub-section if it is not intended for sale as such food.]

(3) Where any sample is taken under clause (a) of sub-section (1) or sub-section (2), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) If any article intended for food appears to any food inspector to be adulterated to misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided ***b*[and he shall, in either case, take a sample of such article and submit the same for analysis to a public analyst] :***

d*[Provided that where the food inspector keeps such article in the safe custody of the vendor he may require the vendor to execute a bond for a sum of money equal to the value of such article with one or more sureties as the food inspector deems fit and the vendor shall execute the bond accordingly.]

e[(4A) Where any article of food seized under sub-section (4) is of a perishable nature and the Local (Health) Authority is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the said Authority may, after giving notice in writing to the vendor, cause the same to be destroyed.]*

(5) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale:

f[Provided that the power to break open the package or door shall be exercised only after the owner or any other person in charge of the package or, as the case may be, in occupation of the premises, if he is present therein, refuses to open the package or door on being called upon to do so, and in either case after recording the reasons for doing so] :*

Provided further that the food inspector shall, in exercising the powers of entry upon, and inspection of any place under this section follow, as far as may be, the provisions of the *f*[Code of Criminal Procedure, 1973,]* relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

(6) *g*[Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such]* and for the possession of which he is unable to account to the satisfaction of the food inspector, *g*[and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the food inspector]* and *g*[a sample of such adulterant]* submitted for analysis to a public analyst :
sub-section (4) or sub-section (6), he shall *d*[call one or more persons to be present at the time when such action is taken and take his or their signatures.]*

h[(7A) Where any books of account or other documents are seized under sub-section (6), the food Inspector shall, within a period not exceeding thirty days from the date of seizure return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed have been taken:*

Provided that where such person refuses to so certify, and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof or extracts therefrom as certified by the court have been taken.

(7B) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.]

(8) Any food inspector may exercise the powers of a police officer under section *i*[section 42 of the Code of Criminal Procedure, 1973]* for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an article of food is seized.

(9) Any food inspector exercising powers under this Act or under the rules made thereunder who-

(a) vexatiously and without any reasonable grounds of suspicion seizes any article of food; *j*[or adulterant];*

(b) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty ;
shall be guilty of an offence under this Act and shall be punishable for such offence *k*[with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees.]*

[a] Cl.(c) substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.8 (1-4-1976).

[b] Inserted, ibid.

[c] Substituted, ibid.

[d] Inserted and substituted for the words "as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures" by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.6 (1-3-1965).

[e] Inserted by Act 34 of 1976, S.8 (1-4-1976).

*[f] First proviso and the words "Code of Criminal Procedure, 1898" substituted *ibid*.*

*[g] Substituted for certain words and proviso added, *ibid*.*

*[h] Inserted, *ibid*.*

*[i] Substituted for the words "section 57 of the Code of Criminal Procedure, 1898" and certain words in 9(b), *ibid*.*

*[j] Inserted, *ibid*.*

*[k] Substituted for certain words, *ibid*.*

OBJECTS AND REASONS

"Clause 8.--1.A number of witnesses represented before the Committee that generally a food inspector harassed the vendor in the matter of taking samples and the powers given to him under the Act were being misused to his advantage. Taking this aspect into account and other suggestions made before it, the Committee is of the opinion that the powers given to a food inspector by the Act should be curtailed so as to minimise the chances of corruption in this regard. The Committee has therefore made the following amendments in the Bill.

(i) It has been clarified that a food inspector shall not have powers to take samples from a person who purchases or receives any article of food for his own consumption and such category of persons has been excluded from the term 'consignee' occurring in S.10(1)(a)(iii) of the principal Act.

(ii) A food inspector shall not take samples of any primary food if the same is not intended for sale as such food.

(iii) A clarificatory amendment has been made to the effect that whenever any article of food which appears to be adulterated or misbranded is seized or kept in the safe custody of the vendor the sample of such article shall be submitted to a public analyst for analysis.

(iv) The books of account or other documents shall be seized by a food inspector only after taking the previous approval of the authority to which he is officially subordinate and he shall return the same within a period of thirty days from the date of seizure. It has, however, been clarified that in case the person from whom the books or other documents have been seized refuse to certify the copies thereof or extracts therefrom and a prosecution has been instituted against him, the food inspector shall return such documents only after taking copies of extracts duly certified by the Court.

(2) The Committee is of the view that there is no necessity for the words "which is unfit for human consumption" appearing in the proposed new clause (c) of sub-section (1) of section 10 of the Principal Act.

(3) The Committee has authorised a food inspector to take samples of adulterants, also in a place where such adulterants are manufactured or kept.

(4) The Committee is of the opinion that the burden of proving that the adulterant seized is not meant for purposes of adulteration should be on the person from whom possession such adulterant was seized and has accordingly amended the new sub-section (7B) of section 10 of the principal Act.

(5) The Committee has also provided a minimum punishment of fine of rupees five hundred which may be extended to a maximum fine of rupees one thousand if the food inspector is found guilty of exercising the powers under the Act vexatiously and without any reasonable grounds of suspicion. The other amendments made in the clause are of drafting and consequential nature.--

J.C.R.-- Gaz. of India, 5-1-1976, Pt. II, S.2, Ext., p.7.

11. Procedure to be followed by food inspectors

.-

a*[(1) When a food inspector takes a sample of food for analysis, he shall-

(a) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed under 14A.

(b) except in special cases provided by rules under this Act divide the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed :

Provided that where such person refuses to sign or put his thumb impression the food inspector shall call upon one or more witnesses and take his or their signatures or thumb impressions as the case may be, in lieu of the signature or thumb impression of such person ;

(c) (i) send one of the parts for analysis to the public analyst under intimation to the Local (Health) Authority; and

(ii) send the remaining two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section and sub-sections (2A) and (2E) of section 13.

(2) Where the part of the sample sent to the public analyst under sub-clause (i) of clause (c) of sub-section (1) is lost or damaged, the Local (Health) Authority shall, on a requisition made to it by the public analyst or the food inspector despatch one of the parts of the sample sent to it under sub-clause (ii) of the said clause (c) to the public analyst for analysis.]

(3) When a sample of any article of food **b*[or adulterant]** is taken under sub-section (1) or sub-section (2) of section 10, **c*[the food inspector shall, by the immediately succeeding working day, send a sample of the article of food or adulterant or both as the case may be,]** in accordance with the rules prescribed for sampling to the public analyst for the local area concerned.

d*[(4) An article of food seized under sub-section (4) of section 10, unless destroyed under sub-section (4A) of that section, and any adulterant seized under sub-section (6) of that section shall be produced before a magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the public analyst :]

e*[.....]

Provided **e*[.....]** that if an application is made to the Magistrate in this behalf by the person from whom any article of food has been seized, the Magistrate shall by order in writing direct the food inspector to produce such article before him within such time as may be specified in the order.

a*[(5) If it appears to the Magistrate on taking such evidence as he may deem necessary ---

(a) that the article of food produced before him under sub-section (4) is adulterated or misbranded, he may order it--

(i) to be forfeited to the Central Government, the State Government or the local authority, as the case may be; or

(ii) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) to be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the Magistrate is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, for being sold after reprocessing under the supervision of such officer as may be specified in the order.

(b) that the adulterant seized under sub-section (6) of section 10 and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer as the case may be, is unable to account satisfactorily, he may order

it to be forfeited to the Central Government, the State Government or the local authority, as the case may be.]

f*(6) If it appears to the Magistrate that any such--

(a) article of food is not adulterated; or

(b) adulterant which is purported to be an adulterant is not an adulterant, the person from whose possession the article of food or adulterant was taken] shall be entitled to have it restored to him and it shall be in the discretion of the Magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the Magistrate may think proper.

[a] Substituted for sub-section (1), (2) and (5) by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.9 (1-4-1976).

[b] Inserted, *ibid.*

[c] Substituted for the words "a food inspector shall send a sample of it", *ibid.*

[d] Opening paragraph substituted, *ibid.*

[e] First proviso and word "further" in 2nd Proviso omitted, *ibid.*

[f] Substituted for certain words, *ibid.*

OBJECTS AND REASONS

"Clause 9.--The question of taking samples and their utilization was carefully considered by the Committee. The Committee is of the opinion that the sample taken from the vendor should continue to be divided into three parts, instead of four as proposed in the clause. The Committee is also of the opinion that none of the parts of the samples taken should be delivered either to the vendor or to the person whose particulars have been disclosed under S.14A of the principal Act. It has, however, been made obligatory on the part of the food inspector to give notice in writing to the person whose particulars, etc., have been disclosed by the vendor then and there of his intention to have the sample analysed, besides the vendor.

It has been provided that the food inspector shall send one of the parts of the sample to the public analyst for analysis under intimation to the Local (Health) Authority and the remaining two parts to the Local (Health) Authority

It has also been provided that the food inspector shall get the signature or thumb impression of the person from whom he has taken a sample and in case such person refuses to sign or put his thumb impression, the food inspector shall call upon one or more witnesses and take his or their signatures or thumb-impression.

The Committee has suggested that a sample of any article of food or adulterant seized under sub-section (1) or sub-section (2) of section 10 of the Act should be sent to the public analyst by the immediately succeeding working day. The Committee has also specified a time-limit of seven days after the receipt of the report of the public analyst within which the articles of food or adulterant seized under sub-section (4) of section 10 of the Act shall be produced before the Magistrate.

Sub-section (5) of section 11 of the principal Act provides for the forfeiture of the seized article of food which is found to be adulterated to a local authority only. The clause had provided for the forfeiture of such article or any adulterant seized to the State Government instead of to local authority. The Committee has stipulated that such forfeiture may be made to the Central Government, State Government or local authority, as the case may be.

Certain drafting and consequential amendments have also been made to include adulterants --- J.C.R.-- Gaz. of India., 5-1-76, Pt.II, S.2, Ext., p.8.

STATE AMENDMENT

Maharashtra :

In its application to the State of Maharashtra in section 11 in clause (a) of sub-section (5) for the words "local authority", substitute the words "State Government" -- Maha.Act 50 of 1975, S.3 (11-4-1977).

12.Purchaser may have food analysed

.-

Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a food inspector **a****[or a recognised consumer association, whether the purchaser is a member of that association or not.]* from having such article analysed by the public analyst on payment of the such fees as may be prescribed and from receiving from the public analyst a report of his analysis:

Provided that **b****[such purchaser or recognised consumer association shall, inform the vendor at the time of purchase of his or its intention]* to have such article so analysed:

Provided further that the provisions of sub-section (1), sub-section (2) and sub-section (3) of section 11 shall, as far as may be, apply to a **c****[purchaser of article of food or recognised consumer association who or which intends]* to have such article so analysed, as they apply to a food inspector who takes a sample of food for analysis:

Provided also that if the report of the public analysis shows that the article of food is adulterated, the **d****[purchaser or recognised consumer association shall be entitled to get refund of the fees paid by him or it]* under this section.

e**[Explanation.--For the purposes of this section and section 20, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.]*

[a] Inserted by Prevention of Food Adulteration (Amendment) Act (70 of 1986), S.2 (1-5-87).

*[b] Substituted for the words "such purchaser shall inform the vendor at the time of purchase of his intention", **ibid.***

*[c] Substituted for the words "purchaser of article of food who intends", **ibid.***

*[d] Substituted for the words "purchaser shall be entitled to get refund of the fees paid by him", **ibid.***

*[e] Added, **ibid.***

13.Report of Public analyst

.-

a**[(1) The public analyst shall deliver, in such form as may be prescribed, a report to the Local (Health) Authority of the result of the analysis of any article of food submitted to him for analysis.*

(2) On receipt of the report of the result of the analysis under sub-section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall, after the institution of prosecution against the person from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under section 14A, forward, in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be informing such person or persons that if it is so desired, either or both of them may make an application to the Court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory.

(2A) When an application is made to the Court under sub-section (2), the Court shall require the Local (Health) Authority to forward the part or parts of the sample kept by the said Authority and upon such requisition being made, the said Authority shall forward the part or parts of the sample to the Court within a period of five days from the date of receipt of such requisition.

(2B) On receipt of the part or parts of the sample from the Local (Health) Authority under sub-section (2A), the Court shall first ascertain that the mark and seal or fastening as provided in clause (b) of sub-section (1) of section 11 are intact and the signature or thumb impression, as the case may be, is not tampered with, and despatch the part or, as the case may be, one of the parts of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the Court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

(2C) Where two parts of the sample have been sent to the Court and of one part of the sample has been sent by the Court to the Director of the Central Food Laboratory under sub-section (2B) the Court shall, as

soon as practicable, return the remaining part to the Local (Health) Authority and that Authority shall destroy that part after the certificate from the Director of the Central Food Laboratory has been received by the Court :

Provided that where the part of the sample sent by the Court to the Director of the Central Food Laboratory is lost or damaged, the Court shall require the Local (Health) Authority to forward the part of the sample, if any, retained by it to the Court and on receipt thereof, the Court shall proceed in the manner provided in sub-section (2B).

(2D) Until the receipt of the certificate of the result of the analysis from the Director of the Central Food Laboratory, the Court shall not continue with the proceedings pending before it in relation to the prosecution.

(2E) If, after considering the report, if any, of the food inspector or otherwise, the Local (Health) Authority is of the opinion that the report delivered by the public analyst under sub-section (1) is erroneous, the said Authority shall forward one of the parts of the sample kept by it to any other public analyst for analysis and if the report of the result of the analysis of that part of the sample by that other public analyst is to the effect that the article of food is adulterated the provisions of sub-sections (2) to (2D) shall, so far as may be, apply.]

(3) The certificate issued by the Director of the Central Food Laboratory **b*[under sub-section (2B)]** shall supersede the report given by the public analyst under sub-section (1).

(4) Where a certificate obtained from the Director of the Central Food Laboratory **b*[under Sub-section (2B)]** is produced in any proceeding under this Act, or under sections 272 to 276 of the Indian Penal Code, it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(5) Any document purporting to be a report signed by a public analyst, unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of Indian Penal Code

c*[*Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory[not being a certificate with respect to the analysis of the part of the sample of any article of food referred to in the proviso to sub-section (1A) of section 16] shall be final and conclusive evidence of the facts stated therein.]*

d*[Explanation.--*In this section, and in clause (f) of sub-section (1) of section 16, "Director of the Central Food Laboratory" shall include the officer for the time being in charge of any Food Laboratory (by whatever designation he is known) recognised by the Central Government for the purposes of this section.]*

[a] *Sub-section (1) and (2) substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.10 (1-4-1976)*

[b] *Substituted for the words "under sub-section (2)", *ibid**

[c] *Substituted, *ibid*.*

[d] *Inserted *ibid*.*

OBJECTS AND REASONS

"Clause 10.-- The Committee is of the opinion that the existing provision regarding prosecution of offences under the Act is very cumbersome. Though a large number of prosecutions had been instituted, many of them had not ended in convictions or had to be withdrawn mostly on the ground that samples taken were not proved to be adulterated or misbranded, and in the process not only a lot of valuable time of the Court must have been wasted but the vendors also were subjected to avoidable harassment. The Committee has therefore changed the whole scheme of prosecution with a view to punish only those whose samples have been found to be adulterated by the report of the public analyst, thus minimising the chances of harassment of vendors and reducing the number of prosecutions.

The Committee has provided that the public analyst will deliver the report to the Local (Health) Authority instead of to the food inspector as provided in the principal Act. The Committee has recommended that on receipt of the report from the public analyst to the effect that the article of food is adulterated, the Local (Health) Authority shall, after the institution of the prosecution against

the person from whom the sample of the article of food was taken and the manufacturer, if any, whose name, address and other particulars have been disclosed by the vendor, forward a copy of the report of the analysis to the vendor and the manufacturer, if any, informing them that they may, if it is so desired, make an application to the Court, within a period of ten days from the date of receipt of the copy of such report, to get another sample of the article of food kept by the Local (Health) Authority, analysed by the Central Food Laboratory. When such an application is made to the Court, the Local (Health) Authority, on a requisition from the Court, shall forward the part of the sample or samples in his possession to the Court within a period of five days from the date of receipt of such requisition. It has been also provided that in such a case the Court shall not continue with the proceeding pending before it in relation to the prosecution until it receives the report of the result of the analysis from the Director of the Central Food Laboratory.

The Committee has also provided that if the Local (Health) Authority is of the opinion that the report delivered by the public analyst is erroneous, the said Authority shall forward one of the parts of the sample kept by it in respect of that article of food to any other public analyst for analysis and if the report of the result of the analysis of that sample by that other public analyst is to the effect that the article of food is adulterated, the Authority shall institute a prosecution against the person or persons involved.

The principal Act provides that any document pertaining to be a certificate signed by the Director of the Central Food Laboratory shall be final and conclusive of the facts stated therein. The Committee has excluded from the purview of this general provision such of the certificates with respect to the analysis of the sample of articles of food or adulterants, which when consumed by any person are likely to cause death or grievous hurt to such person. The proviso to sub-section (5) of section 13 of the Act has been suitably amended for the purpose." -- J.C.R.--Gaz. of Ind., 5-1-1976, Pt. II, S. 2, Ext., p. 10.

MISCELLANEOUS

a*[14. Manufacturers, distributors and dealers to give warranty.-

No **b***[manufacturer or distributor of, or dealer in], any article of food shall sell such article to any vendor unless he also gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor.

c*[Provided that a bill, cash memorandum or invoice in respect of the sale of any article of food given by a manufacturer or distributor of, or dealer in, such article to the vendor thereof shall be deemed to be a warranty given by such manufacturer, distributor or dealer under this section.]

Explanation.-- In this section, in sub-section (2) of section 19 and in section 20-A, the expression "distributor" shall include a commission agent.]

[a] Section 14 substituted for S.14 by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S. 7 (1-3-1965).

[b] Substituted for the words "manufacturer, distributor or dealer of" by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S. 11 (1-4-1976)

[c] Inserted, *ibid.*

a*[14-A. Vendor to disclose the name, etc., of the person from whom the article of food was purchased.-

Every vendor of an article of food shall, if so required, disclose to the food inspector the name, address and other particulars of the person from whom he purchased the article of food.]

[a] S. 14A substituted for S. 14 by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S. 7 (1-3-1965).

15. Notification of food poisoning

.-

a**[The Central Government or the State Government]* may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

[a] *Substituted for the words "the State Government" by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.8 (1-3-1965).*

16. Penalties

•-

a*[b*](1) Subject to the provisions of sub-section (1A), if any person--

(a) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any article of food--

(i) which is adulterated within the meaning of sub-clause (m) of clause (ia) of section 2 or misbranded within the meaning of clause (ix) of that section or the sale of which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority ;

(ii) other than an article of food referred to in sub-clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder; or

(b) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any adulterant which is not injurious to health; or

(c) prevents a food inspector from taking a sample as authorised by this Act; or

(d) prevents a food inspector from exercising any other power conferred on him by or under this Act; or

(e) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any adulterant which is not injurious to health; or

(f) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extract thereof for the purpose of advertising any article of food; or

(g) whether by himself or by any other person on his behalf, gives to the vendor a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine which shall not be less than one thousand rupees :

Provided that--

(i) if the offence is under sub-clause (i) of clause (a) and is with respect to an article of food, being primary food, which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (k) of clause (ix) of section 2; or

(ii) if the offence is under sub-clause (ii) of clause (a), but not being an offence with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24,

the Court may, for any adequate and special reasons to be mentioned in the judgement impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees :

Provided further that if the offence is under sub-clause (ii) of clause (a) and is with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24, the Court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees.]

c*[(1A)] If any person whether by himself or by any other person on his behalf imports into India or manufactures for sale, or stores, sells or distributes,--

(i) any article of food which is adulterated within the meaning of any of the sub-clauses (e) to (l) (both inclusive) of clause (ia) of section 2; or

(ii) any adulterant which is injurious to health,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than one year but which may extend to six years and with fine which shall not be less than two thousand rupees :

Provided that if such article of food or adulterant, when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.

c*[(1AA) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, tampers or in any other manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees.

d*[(1B) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, sells or distributes such article which is found by the magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of clause (ia) of section 2 and which when consumed by any person, is likely to cause his death or is likely to cause such harm on his body would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, then, notwithstanding anything contained in sub-section (1AA), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.]]

(1C) If any person contravenes the provisions of section 14 or section 14-A, he shall be punishable with imprisonment for a term which may extend to six months and with fine which shall not be less than five hundred rupees.

(1D) If any person convicted of an offence under this Act commits a like offence afterwards, then, without prejudice to the provisions of sub-section (2), the Court, before which the second or subsequent conviction takes place, may order the cancellation of the licence, if any, granted to him under this Act and thereupon such licence shall, notwithstanding anything contained in this Act or in the rules made thereunder, stand cancelled.]

(2) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the Court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine

[a] Sub-sections (1) to (1D) substituted for former sub-section (1) by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.9 (1-3-1965).

[b] Sub-section (1) substituted by Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.12 (1-4-1976).

[c] Former sub-section (1A) re-numbered as sub-section (1AA) and new sub-section (1A) inserted before it, *ibid*.

[d] Substituted, *ibid*.

STATE AMENDMENT

West Bengal :

West Bengal Act 42 of 1973, S.6 (ii) had amended sub-section (1), proviso thereto and sub-section (1B) w.e.f.29-4-1974. All these provisions have now been substituted by Central Act 34 of 1976, S.12. Therefore the amendments have been taken here. The Central Act has come into force from 1-4-1976.

a*[16A. Power of Court to try cases summarily.--- .

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under sub-section (1) of section 16 shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of section 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year :

Provided further that when at the commencement of, or in the course of a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term

exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.13 (1-4-1976).

OBJECTS AND REASONS

"Clause 13 (New Clause).--The Committee is of the opinion that cases involving food adulteration should be tried and the offenders punished as quickly as possible. To achieve this object the Committee has added this new clause which provides for summary trial in cases which do not involve heavy punishment i.e., offences which come under sub-section (1) of section 16 of the Act. It has, however, been ensured that such offences are tried by a Judicial Magistrate of the First Class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate. It has also been provided that if the Magistrate, in the course of summary trial is of the opinion that it is undesirable to try the case summarily or that a sentence of imprisonment for a term exceeding one year may have to be passed he shall record an order to that effect and thereafter proceed to hear or rehear the case in the manner provided by the Code of Criminal Procedure, 1973".---J.C.R.-Gaz. of Ind., 5-1-1976, pt.II, S.2, Ext., p.11.

a*[

17. Offences by companies

.-

(1) Where an offence under this Act has been committed by a company--

- (a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as the person responsible), or
- (ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors or managers (such manager being employed mainly in a managerial or supervisory capacity) to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Local (Health) Authority in such form and in such manner as may be prescribed, that it has nominated such director or manager as the person responsible, along with the written consent of such director or manager for being so nominated.

Explanation.--Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2), shall, until--

- (i) further notice cancelling such nomination is received from the company by the Local (Health) Authority; or
- (ii) he ceases to be a director or, as the case may be, manager of the company; or
- (iii) he makes a request in writing to the Local (Health) Authority, under intimation to the company, to cancel the nomination which request shall be complied with by the Local (Health) Authority,

whichever is the earliest, continue to be the person responsible :

Provided that where such person ceases to be a director or, as the case may be, manager, of the company, he shall intimate the fact of such cesser to the Local (Health) Authority :

Provided further that where such person makes a request under clause (iii), the Local (Health) Authority shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, not being a person nominated under sub-section (2) such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section--

(a) "company" means anybody corporate and includes a firm or other association of individuals ;

(b) "director" in relation to a firm, means a partner in the firm; and

(c) "manager" in relation to a company engaged in hotel industry, includes the person in charge of the catering department of any hotel managed or run by it.]

[a] Substituted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.14 (1-4-1976).

18.Forfeiture of property

.-

Where any person has been convicted under this Act for the contravention of any of the provisions of this Act or of any rule thereunder, the article of food in respect of which the contravention has been committed may be forfeited to the Government.

a*[Provided that where the court is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, the court may order the article of food to be returned to the owner, on his executing a bond with or without sureties, for being sold, subject to the other provisions of this Act, after reprocessing under the supervision of such officer as may be specified therein.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.15 (1-4-1976).

19.Defences which may or may not be allowed in prosecutions under this Act

.-

(1) It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

a*[(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves--

(a) that he purchased the article of food--

(i) in a case where a licence is prescribed for the sale thereof, from a duly licensed manufacturer, distributor or dealer;

- (ii) in any other case, from any manufacturer, distributor or dealer, with a written warranty in the prescribed form; and
- (b) that the article of food while in his possession was properly stored and that he sold it in the same state as he purchased it.]
- (3) Any person by whom a warranty as is referred to **b***[in section 14], is alleged to have been given shall be entitled to appear at the hearing and give evidence.
- [a] Substituted for former sub-section (2) by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.10 (1-3-1965).**
- [b] Substituted for the words "in sub-section (2)", *ibid*.**

STATE AMENDMENTS

Section 19A Uttar Pradesh :

In its application to the State of Uttar Pradesh, after S.19 insert S.19A--

"19A. Burden of proof.-

When any article intended for food is seized under sub-section (4) of S.10 by a Food Inspector in the reasonable belief that the same is adulterated or misbranded, the burden of proving that such article intended for food is not adulterated or misbranded shall be on the person from whom possession such article intended for food was seized."

--U.P.Act 47 of 1975, S.6 (iv) (15-12-1975).

West Bengal :

In its application to the State of West Bengal, after S.19 of the principal Act, insert the following section, namely :--

"19A. Burden of proof.--

When any article intended for food is seized from any person in the reasonable belief that the same is adulterated or misbranded the burden of proving that such article intended for food is not adulterated or misbranded shall be on the person from whose possession such article intended for food was seized." --

W.B.Act 42 of 1973, S.6 (iv) (29-4-1974).

20. Cognizance and trial of offences

.-

(1) **a***[No prosecution for an offence under this Act, not being an offence under section 14 or section 14A] shall be instituted except by, or with the written consent of **b***[the Central Government or the State Government **c***[.....] or a person authorised in this behalf by general or special order, by the Central Government or the State Government **c***[.....]]

Provided that a prosecution for an offence under this Act may be instituted by a purchaser **e***[or recognised consumer association] referred to in section 12 **f***[if he or it produces] in court a copy of the report of the public analyst along with the complaint.

d*[(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence punishable under sub-section (1AA) of section 16 shall be cognizable and non-bailable.]

[a] Substituted for the words "No prosecution for an offence under this Act" by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.16 (i) (1-4-1976).

[b] Substituted for certain words by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.11 (1-3-1965).

[c] The words "or a local authority" omitted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.16 (ii) (1-4-1976).

[d] Sub-section (2) substituted by Act 34 of 1976, S.16 (1-4-1976).

[e] Inserted by the Prevention of Food Adulteration (Amendment) Act (70 of 1986), S.3 (1-5-87).

*[f] Substituted for the words "if he produces", *ibid*.*

OBJECTS AND REASONS

"Clause 15 (Original clause 14).-- The Committee is of the opinion that for instituting a prosecution for an offence mentioned in section 14 (i.e.non-issuance of a written warranty) or section 14-A (i.e.non-disclosure of the source of purchase) the prior sanction of the Central Government or the State Government as required under section 20 of the Act should not be necessary.These offences have therefore been excluded from the purview of sub-section (1) of section 20 of the Act. The Committee is also of the opinion that an offence punishable under section 14 or section 14A need not be cognisable and non-bailable and has accordingly omitted the reference to sub-section (1C) of section 16 from the proposed sub-section (3) of section 20." -- J.C.R.Gaz of Ind., 5-1-1976, Pt.II, S.2, Ext., p.11

STATE AMENDMENT

West Bengal

In its application to the State of West Bengal, for section 20 substitute the following, namely :--

"20. Cognizance of offences and arrest without warrant.--

(1) All offences punishable under this Act shall be cognizable and non-bailable.

(2) Any police officer not below the rank of a Sub-Inspector of police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any of the offences punishable under this Act." -- W.B.Act 42 of 1973, S.6(v) (29-4-1974).

a*[20A. Power of Court to implead manufacturer, etc.-

Where at any time during the trial of any offence under this Act alleged to have been committed by a person, not being the manufacturer, distributor or dealer of any article of food, the Court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then, the Court may notwithstanding anything contained in **b*[sub-section (3) of section 319 of the Code of Criminal Procedure, 1973, or in section 20 proceed against him as though a prosecution had been instituted against him under section 20.]**

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.12 (1-3-1965).

[b] Substituted for the words "sub-section (1) of section 351 of the Code of Criminal Procedure,1898" by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.17 (1-4-1976).

a*[20AA. Application of the Probation of Offenders Act, 1958 and section 360 of the Code of Criminal Procedure, 1973.-

Nothing contained in the Probation of Offenders Act, 1958 or section 360 of the Code of Criminal Procedure, 1973 shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.18 (1-4-1976)

a*[

21.Magistrate's power to impose enhanced penalties

.-

Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.]

[a] Substituted for former S.21 by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.19 (1-4-1976)

22. Protection of action taken in good faith

.-

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

a*[22A. Power of Central Government to give directions.-

The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of all or any of the provisions of this Act and the State Government shall comply with such directions.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.20 (1-4-1976).

OBJECTS AND REASONS

"Clause 19 (Original clause 18).--The Bill had proposed to give power to the Central Government to exempt any manufacturer or distributor of, or dealer in any article of food from the operation of section 14 of the Act regarding the issue of warranty. Since section 14 is a very salutary provision the Committee is of the view that no provision for giving such exemption need be included in the Act and that all the agencies mentioned above, irrespective of its nature should comply with the obligatory provision of issuing warrant contained in that section. The proposed new section 22A as provided in the Bill has accordingly been omitted.

The Committee has, however, added a new provision enabling the Central Government to give directions to the State Governments regarding the carrying into execution in the State concerned of all or any of the provisions of the Act",-- J.C.R--Gaz. of Ind., 5-1-1976, Pt.II, S.2, Ext., p.12.

23. Power of the central Government to make rules

.-

a[(1) The Central Government may, after consultation with the Committee and after previous publication by notification in the Official Gazette, make rules to carry out the provisions of this Act.*

Provided that consultation with the Committee may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but, in such a case the Committee shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Committee may make in relation to the amendment of the said rules.]

a[(1A) b*[In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely] :--*

(a) specifying the articles of food or classes of food for the import of which a licence is required and prescribing the form and conditions of such licence, the authority empowered to issue the same and *c*[the fees payable therefor; the deposit of any sum as security for the performance of the conditions of the licence and the circumstances under which such licence or security may be cancelled or forfeited.]*

(b) defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food;

(c) laying down special provisions for imposing rigorous control over the production, distribution and sale of any article or class of articles of food which the Central Government may, by notification in the Official Gazette, specify in this behalf including registration of the premises where they are manufactured, maintenance of the premises in a sanitary condition and maintenance of the healthy state of human beings associated with the production, distribution and sale of such article or class of articles;

(d) restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article *d*[or to preventing adulteration;]*

(e) defining the qualifications, powers and duties of food inspectors and public analysts;
e[(ee) defining the laboratories where samples of articles of food or adulterants may be analysed by public analysts under this Act;]*

(f) prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture of any article of food or regulating by the issue of licences the manufacture or sale of any article of food;

(g) defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health;

(h) specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up;
e[(hh) defining the methods of analysis;]*

(i) specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables or their products or any other article of food as well as the maximum amounts of each preservative;

(j) specifying the colouring matter and the maximum quantities thereof which may be used in any article of food;

(k) providing for the exemption from this Act or of any requirements contained therein and subject to such conditions if any, as may be specified, of any article or class of articles of food;

(l) prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food ;

(m) prohibiting or regulating-

(i) the addition of any water, or other diluent or adulterant to any article of food;

(ii) the abstraction of any ingredient from any article of food;

(iii) the sale of any article of food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

- (iv) the mixing of two or more articles of food which are similar in nature or appearance;
- (n) providing for the destruction of such articles of food as are not in accordance with the provisions of this Act or of the rules made thereunder.

f[(2) Every rule made by the Central Government under Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days g*[which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]*

[a] Sub-section (1) renumbered as sub-section (1A) of new sub-section (1) inserted before it by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.21 (1-4-1976).

[b] Substituted for certain words, ibid.

[c] Substituted for the words "the fees payable therefor" by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.18 (1-3-1965).

[d] Inserted by Act 34 of 1976, S.21 (1-4-1976).

[e] Inserted, ibid.

[f] Substituted for the former sub-section (2) by Act 49 of 1964, S.18 (1-3-1965).

[g] Substituted for certain words by Act 34 of 1976, S.21 (1-4-1976).

24. Power of the State Government to make rules

.-

(1) The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of section 23.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may-

(a) define the powers and duties of the Food (Health) Authority, *a*[local authority and Local (Health) Authority under this Act] b*[.....] ;*

(b) prescribe the forms of licences for the manufacture for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same and *c*[the fees payable therefor--the deposit of any sum as security for the performance of the conditions of the licences and the circumstances under which such licences or security d*[may be suspended, cancelled or forfeited],]*

(c) direct a fee to be paid for analysing any article of food or for any matter for which a fee may be prescribed under this Act;

(d) direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realisation;

(e) provide for the delegation of the powers and functions conferred by this Act on the State Government or the Food (Health) Authority to subordinate authorities or to local authorities.

(3) All rules made by the State Governments under this Act shall, as soon as possible after they are made, be laid before the respective State Legislatures.

[a] Substituted for the words "and local authority" by the Prevention of Food Adulteration (Amendment) Act, 1976 (34 of 1976), S.22 (1-4-1976).

[b] Words "and jurisdiction of food inspectors and public analyst" omitted by the Prevention of Food Adulteration (Amendment) Act, 1964 (49 of 1964), S.14 (1-3-1965).

*[c] Substituted for the words "and the fees therefor", *ibid*.*

[d] Substituted for the words "may be cancelled or forfeited" by Act 34 of 1976, S.22 (1-4-1976).

STATE AMENDMENT

Maharashtra :

In its application to the State of Maharashtra, in S.24, in clause (d) of sub-section (2), for the words shall be paid to a local authority on realisation', substitute the words, "shall, on realisation, be paid either to a local authority, or where any authority or officer of the State Government is appointed as the local authority, be credited to the Consolidated Fund of the State." --Maha.Act 50 of 1975, S.4 (11-4-1977).

25.Repeal and saving

.-

(1) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall upon such commencement stand repealed.

(2) Notwithstanding the repeal by this Act of any corresponding law all rules, regulations and bye-laws relating to the prevention of adulteration of food, made under such corresponding law and in force immediately before the commencement of this Act shall, except where and so far as they are inconsistent with or repugnant to the provisions of this Act, continue in force until altered, amended or repealed by rules made under this Act.

a*[(3)(a) References to the commencement of this Act in this section shall be construed as reference to the commencement of the Prevention of Food Adulteration (Amendment) Act, 1971.

(b) For the avoidance of doubt, it is hereby declared that the provisions of sub-section (2) shall be without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897, which shall also apply to the repeal of the corresponding law in force in the State of Jammu and Kashmir as if such corresponding law had been an enactment.]

[a] Inserted by the Prevention of Food Adulteration (Amendment) Act, 1971 (41 of 1971), S.4 (26-1-1972).
